

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 18467 of 2004

Between:

Gollapati Peda Subbaiah S/o China Chandraiah
R/o Koppolu, Ongole (M), Prakasam District

..... PETITIONER

AND

- 1 Sri Chennakesava & Anjaneya Swamy Temple, Koppolu Village, Ongole Mandal, Prakasam District., rep by Executive Officer
- 2 The Assistant Commissioner of Endowments, Ongole, Prakasam District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in trying to dispossess the petitioner from the tenanted lands without following due process of law as arbitrary, illegal and in violation of Article 14 and 21 of the Constitution of India and consequently direct the respondent authorities not to disturb the petitioner from the agricultural land in Sy. No. 617 in an extent of Ac. 2-13 cents at Koppolu Village, Ongole Mandal, Prakasam District and to follow the directions given in the earlier batch of Writ Petitions

Counsel for the Petitioner: MR.SRINIVAS KURRA

Counsel for the Respondent No.1: Mrs. N.Indrani

Counsel for the Respondent No.2: GP FOR ENDOWMENTS

The Court at the stage of admission made the following :

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ORDER:

Heard the learned counsel for the petitioner and the learned standing counsel appearing for the 1st respondent as well as learned Government Pleader appearing for 2nd respondent.

As can be seen from the material on record, the petitioner, who claims to be the cultivating tenant, is in occupation of an extent of Acs.2.13 cents of land situated in Sy.No.617 of Koppolu village belonging to the 1st respondent-Temple.

The contention raised by the petitioner is that being a landless poor person, he is entitled to the benefit of Section 82 (2) of the A.P. Charitable & Hindu Religious Institutions and Endowments Act, 1987 (for short, 'the Act') and therefore the 1st respondent is not entitled either to dispossess him or to put the leasehold rights of the land in question to public auction.

Learned Standing counsel appearing for the 1st respondent contends that the petitioner is not entitled to the benefit of Section 82 (2) of the Act since he entered in to the land in question only in the year 1991-92 and he was not in

possession of the same by the date of the commencement of Act, 30 of 1987.

Whether the petitioner is a landless poor person as defined under the Explanation to Section 82 (2) of the Act and whether he is entitled to the protection under the said provision is a matter for enquiry by the 2nd respondent and cannot be gone into by this Court.

Accordingly, without expressing any opinion with regard to the claim of the petitioner, the writ petition is disposed of granting liberty to the petitioner to make a claim before the 2nd respondent-Assistant Commissioner of Endowments, Ongole, Prakasam District, within a period of two weeks from today, in which event, the same shall be considered in accordance with law and appropriate orders be passed within a period of two weeks thereafter. Till such time, status quo obtaining as on today as to the nature and possession of the land in question shall be maintained.

The Writ Petition is accordingly disposed of. No costs.

08-11-2004

Note: Issue C.C. in three days

B/o

klp

To

- 1 Sri Chennakesava & Anjaneya Swamy Temple, Koppolu Village, Ongole Mandal, Prakasam District., rep by Executive Officer
- 2 The Assistant Commissioner of Endowments, Ongole, Prakasam District
3. 2CCs to G.P. for Endowments, High Court buildings,
Hyderabad.(OUT).
4. 2CD copies